

**Commonwealth of Massachusetts**

**County of Middlesex**

**The Superior Court**

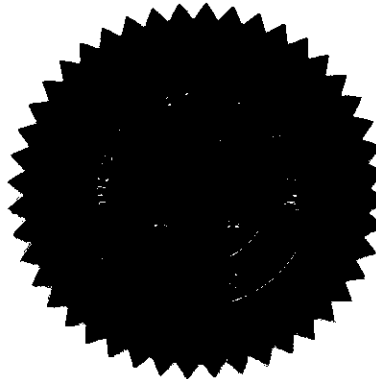
FILED  
DEC 29 2004

CLERK OF THE COURT

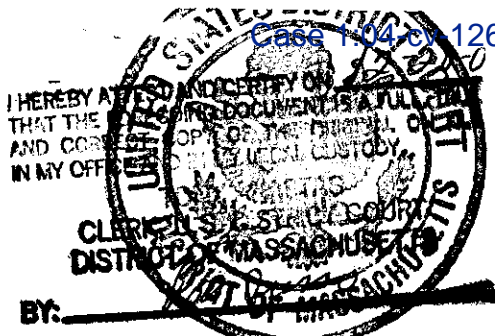
*James J. Connelley*

I, **Michael Brennan**, Assistant Clerk of the Superior Court of the Commonwealth of Massachusetts within and for said County of Middlesex, do certify that the papers hereto annexed are true pleadings in case No. **MICV2004-03371** entered in the Superior Court on **08/27/2004**.

IN TESTIMONY WHEREOF, I hereunto set my hand and  
affix the seal of said Superior Court,  
at said Lowell  
this 29th day of December, in the year of our  
Lord 2004



*Michael M Brennan*  
Assistant Clerk of the Courts



**COPY**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

FILED  
IN CLERK'S OFFICE  
DEC 20 P 4:01

U.S. DISTRICT COURT  
DISTRICT OF MASS.

JOHN MADIGAN,  
Plaintiff

v.

GENERAL STAR INDEMNITY CO.,  
Defendant

CIVIL ACTION NO.

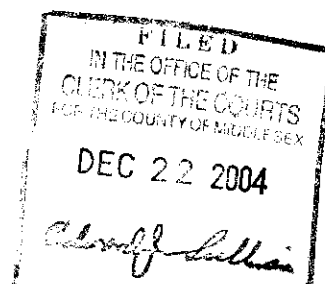
**04 CV 12665 DPW**

**NOTICE OF REMOVAL**

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS:

Pursuant to 28 U.S.C. §§ 1441 and 1446, the Defendant, General Star Indemnity Co. ("General Star"), hereby gives notice of the removal to this Court of this action, which was commenced in the Commonwealth of Massachusetts, Middlesex County Superior Court (Civil Action No. MICV2004-03371-L). As grounds for this removal, General Star respectfully states as follows:

1. The plaintiff, John Madigan, brought this action in Middlesex County Superior Court by a complaint that was served upon General Star on or about November 23, 2004. (See Summons and Complaint, Exhibit A hereto.)
2. According to the complaint, the plaintiff is an individual residing in the Commonwealth of Massachusetts.
3. The removing party, General Star, is a corporation with its principal place of business in Stamford, Connecticut.
4. The plaintiff's action is a civil action over which this Court has diversity subject-matter jurisdiction under the provisions of 28 U.S.C. § 1332, because the amount in controversy exceeds the



sum or value of \$75,000, exclusive of interest and costs, and the action is between citizens of different states.

5. General Star is entitled to remove the plaintiff's action to the Court pursuant to 28 U.S.C. §§ 1441 and 1446, because the Court has original jurisdiction over the action; the action is pending within this District and Division; and General Star is not a citizen of Massachusetts.

6. Copies of all process and pleadings served on General Star in this action are attached hereto as Exhibit A.

Signed, pursuant to Fed. R. Civ. P. 11, on December 20, 2004.

GENERAL STAR INDEMNITY CO.  
By its attorneys,



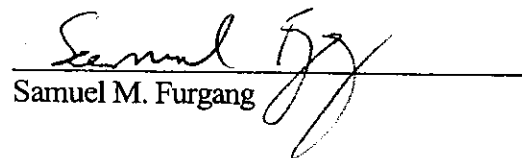
Samuel M. Furgang, BBO #559062  
SUGARMAN, ROGERS, BARSHAK & COHEN, P.C.  
101 Merrimack Street, 9th Floor  
Boston, MA 02114  
(617) 227-3030

Dated: December 20, 2004

CERTIFICATE OF SERVICE

I, Samuel M. Furgang, hereby certify that on the above date I served the within document by mailing a copy of same, postage prepaid, to the following counsel of record:

Michael C. Najjar, Esquire  
Marcotte Law Firm  
45 Merrimack Street  
Lowell, MA 01852



Samuel M. Furgang

04-3371 L

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

JOHN MADIGAN,  
Plaintiff

V.

GENERAL STAR INDEMNITY CO.,  
Defendant

FILED  
IN THE OFFICE OF THE  
CLERK OF THE COURTS  
FOR THE COUNTY OF MIDDLESEX

SUPERIOR COURT  
IN CIVIL ACTION NO. [REDACTED]  
CLERK OF THE COURTS  
FOR THE COUNTY OF MIDDLESEX

AUG 27 2004

*Edward J. Sullivan*  
CLERK

9773ED00008/27/04CIVIL  
9773ED00008/27/04SUR CHARGE  
9773ED00008/27/04SECC

240.00  
15.00  
20.00

COUNT I

1. Plaintiff John Madigan resides in Lowell, Middlesex County, Massachusetts.
2. Defendant General Star Indemnity Co. is headquartered in Stamford Connecticut, and sells insurance coverage in Massachusetts.
3. On August 30, 2001 plaintiff was working on a roof at a building located at 10 North Main Street, Westford, Massachusetts.
4. The North Main Street building, known as the Rust Lick Building, was owned by Industrial Rents, LLC.
5. On August 30, 2001, Industrial Rents, LLC was insured by General Star Indemnity Co.
6. Plaintiff had fallen from the roof of the Rust Lick Building when a section of it collapsed under him.
7. As a result of the fall, plaintiff suffered severe injuries, incurred more than \$1000,000.00 in medical expenses, endured pain and suffering, sustained permanent partial losses of function, and sustained a lost earning capacity.
8. Plaintiff brought a claim against Industrial Rents, LLC asserting in part that Industrial Rents, LLC failed to provide a safe workplace and failed to warn of dangers not readily apparent to plaintiff.
9. Industrial Rents, LLC presented the claim to defendant General Star Indemnity Co.
10. General Star Indemnity Co. refused to cover the claim and refused to provide a defense, based upon an "Independent Contractors Exclusion" in the insurance policy.

11. At the time of his accident, plaintiff was working for an independent contractor who had contracted to replace the roofing material on the Rust Lick building.
12. The claims raised by plaintiff against Industrial Rents, LLC were not within the exclusionary terms of defendant's "Independent Contractors Exclusion", and defendant should have covered the claims brought by plaintiff against defendant's insured, Industrial Rents, LLC.
13. Plaintiff is the assignee of all rights and claims that Industrial Rents, LLC may have against General Star Indemnity Co.
14. As assignee plaintiff hereby makes claim for payment of all sums for which Industrial Rents, LLC is or would be liable to plaintiff, and costs of defense incurred by Industrial Rents, LLC, and costs of any attorneys' fees incurred to maintain this action to secure the insurance coverage that should have been available to Industrial Rents, LLC.

WHEREFORE, plaintiff demands judgment against defendant, with interest, costs and attorneys' fees.

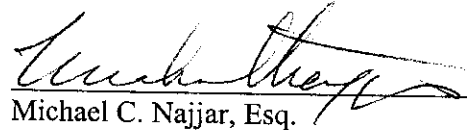
COUNT II

1. Plaintiff realleges paragraphs 1 through 12 of Count I.
2. This Count is to reach and apply the proceeds of Industrial Rents, LLC's liability policy with the defendant, brought in accordance with G.L. c. 175, §112 and §113, and G.L. c. 214, §3.

WHEREFORE, plaintiff demands judgment against defendant, with interest, costs and attorneys' fees.

**PLAINTIFF DEMANDS TRIAL BY JURY!**

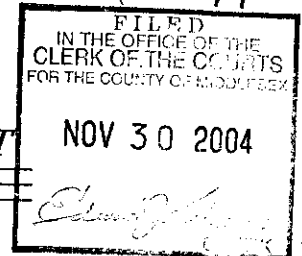
Respectfully Submitted,  
John Madigan,  
by his attorney,



Michael C. Najjar, Esq.  
BBO# 366740  
Marcotte Law Firm  
45 Merrimack Street  
Lowell, MA 01852  
(978)458-1229

**MARCOTTE**  
**LAW FIRM**  
45 MERRIMACK ST.  
LOWELL, MA 01852  
(978) 458-1229

S:\Attorneys\Michael N\Clients\Madigan, John [aa] 8.30.01\PLEADINGS (Madigan v. General Star Indemnity Co)\08 26 04 LD - Complaint.wpd



STATE OF CONNECTICUT

Paul L. Verille, State Marshal

Cellular: (203) 249-0540

1856 Summer Street/Stamford/Connecticut/06905

Telephone: (203) 327-0816

Over 30 Years in Law Enforcement

Facsimile: (203) 348-3221

AFFIDAVIT OF SERVICE

STATE OF CONNECTICUT, COUNTY OF FAIRFIELD

ss: *Stamford*

The undersigned, being duly sworn, deposes and says; deponent is not a party to the action, is over 18 years of age and resides at 1856 SUMMER STREET, STAMFORD, CT 06905.

That on November 23, 2004, at 11:00 AM, at General Cologne Re, 695 East Main Street, Stamford, Connecticut, deponent served the within Summons, Complaint, Teaching Order, Civil Action Cover Sheet on Adam D. Roberts Esq Senior V.P., defendant(s) named.  
& Assistant General Counsel.

INDIVIDUAL 1 by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.

CORPORATION 2 a \_\_\_\_\_ corporation, by delivering thereat a true copy of of each to \_\_\_\_\_ personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be \_\_\_\_\_.

SUITABLE AGE PERSON 3 by delivering thereat a true copy of each to \_\_\_\_\_ a person of suitable age said discretion. Said premises is defendant's (actual place of business) (dwelling house) (usual place of abode) within the state.

AFFIXING TO DOOR, ETC. 4 by affixing a true copy of each to the door of said premises, which defendant's (actual place of business) (dwelling house) (usual place of abode) within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion, thereat, having called there.

MAILING 3 or 4 Deponent also enclosed a copy of same in a postpaid sealed wrapping properly addressed to defendant at defendant's last known residence at \_\_\_\_\_, Certified Mail #: \_\_\_\_\_ and deposited said wrapper in a post office official depository under exclusive care and custody of the United States Postal Service within the State of Connecticut.

DESCRIPTION required with 1 & 3 above Deponent described the individual served as follows:  
Sex: M Age: 45 Yrs. Height: 5'10" Weight: 160 lbs.  
Hair Color: brown Skin Color: Caucasian  
Other: no glasses, clean shaven

*Paul L. Verille*

Paul L. Verille, State Marshal, State of Connecticut

Sworn to and subscribed before me this 23 day of November, 2004.

*Edmund J. [Signature]*

NOTARY PUBLIC

My Commission Expires October 31, 2009

TO PLAINTIFF'S ATTORNEY: PLEASE CIRCLE TYPE OF ACTION INVOLVED: —  
TORT — MOTOR VEHICLE TORT — CONTRACT —  
EQUITABLE RELIEF — OTHER

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX ss  
[seal]

SUPERIOR COURT  
DEPARTMENT  
OF THE  
TRIAL COURT  
CIVIL ACTION

No. MICV2004-03371-L

JOHN MADIGAN Plaintiff(s)

v.

GENERAL STAR INDEMNITY CO., Defendant(s)

SUMMONS

To the above-named Defendant: GENERAL STAR INDEMNITY CO., 695 MAIN STREET, STAMFORD, CT

You are hereby summoned and required to serve upon MICHAEL G. NAJJAR, ESQ.,  
MARCOTTE LAW FIRM, plaintiff's attorney, whose address is 45 MERRIMACK ST., LOWELL,  
MA 01852, an answer to the complaint which is herewith  
served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you  
fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also  
required to file your answer to the complaint in the office of the Clerk of this court at MIDDLESEX SUPERIOR  
COURT, 360 GORHAM ST., LOWELL, MA 01852 either before service upon plaintiff's attorney or within a  
reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may  
have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's  
claim or you will thereafter be barred from making such claim in any other action.

Witness, Suzanne V. DelVecchio  
Esquire, at CAMBRIDGE  
the 19th day of NOVEMBER

in the year of our Lord one thousand nine hundred and four 2004

MCN/mjm

  
Clerk

NOTES.

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

Commonwealth of Massachusetts  
MIDDLESEX SUPERIOR COURT  
Case Summary  
Civil Docket

12/29/2004  
03:57 PM

**MICV2004-03371**  
**Madigan v General Star Indemnity Company**

File Date	08/27/2004	Status	Disposed: transfered to other court (dtrans)	
Status Date	12/22/2004	Session	L - Cv time-stan 1 (Lowell)	
Origin	1	Case Type	D02 - Reach & apply (214.003)	
Lead Case		Track	F	

Service	11/25/2004	Answer	01/24/2005	Rule12/19/20	01/24/2005
Rule 15	01/24/2005	Discovery	06/23/2005	Rule 56	07/23/2005
Final PTC	08/22/2005	Disposition	10/21/2005	Jury Trial	Yes

**PARTIES**

**Plaintiff**

John Madigan  
Active 08/27/2004

**Private Counsel 366740**

Michael Najjar  
Marcotte Law Offices (Albert J)  
45 Merrimack Street  
Lowell, MA 01852  
Phone: 978-458-1229  
Fax: 978-453-4468  
Active 08/27/2004 Notify

**Defendant**

General Star Indemnity Company  
695 East Main Street  
Served: 11/30/2004  
Served (answr pending) 11/30/2004

**ENTRIES**

Date	Paper	Text
08/27/2004	1.0	Complaint & civil action cover sheet filed
08/27/2004		Origin 1, Type D02, Track F.
11/30/2004	2.0	Affidavit of compliance with long-arm statute with proof of service on out of state defendant, General Star Indemnity Company by Paul L. Verille, State Marshal, State of Connecticut, County of Fairfield on 11/23/04
12/22/2004	3.0	Case REMOVED this date to US District Court of Massachusetts

**EVENTS**

**Commonwealth of Massachusetts**

**SUPERIOR COURT DEPARTMENT OF THE TRIAL COURT**

in testimony that the foregoing is a true copy on file  
and of record made by photographic process. I hereunto  
set my hand and affix the seal of said Superior Court  
this Monday of November 2004  
Deputy Assistant Clerk